

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

In re:)	
)	
THRUSH AIRCRAFT, INC.)	Case No. 19-10976-AEC
)	
Debtor)	Chapter 11
)	

**AMENDED OBJECTION OF UNITED STATES TRUSTEE TO
APPLICATION TO EMPLOY LOGUE LAW, P.C. AS COUNSEL FOR DEBTOR**

Nancy J. Gargula, United States Trustee for Region 21 (“United States Trustee”), by and through the undersigned counsel, pursuant to 28 U.S.C. § 586, files this amended objection:

1.

On September 4, 2019, **THRUSH AIRCRAFT, INC.** (the “Debtor”) filed for relief under chapter 11 of the United States Bankruptcy Code.

2.

The Debtor filed an application to employ the firm of Logue Law, P.C. as counsel for Debtor on September 5, 2019 (Doc 12). The application states that A. Keith Logue would be employed to render the following services as counsel for the Debtor:

- a. to give Debtor legal advice with respect to the powers and duties of a Debtor-in-Possession in the continued operation of the business and management of Debtor’s property;
- b. to prepare on behalf of Debtor, as a Debtor-in-Possession, necessary applications, motions, answers, reports, and other legal papers;
- c. to continue existing litigation, if any, to which Debtor-in-Possession may be a party and to conduct examinations incidental to the administration of their estates;
- d. to take any and all necessary action necessary to the proper preservation and administration of Debtor’s estate;

- e. to assist Debtor-in-Possession with the preparation and filing of its Statements of Financial Affairs and schedules and lists as are appropriate;
- f. to take whatever action is necessary with reference to the use by Debtor of their property pledged as collateral, including cash collateral, to preserve the same for the benefit of the Debtor and secured creditors in accordance with the requirements of the Bankruptcy Code;
- g. to assert, as directed by the Debtor, all claims Debtor has against others;
- h. to assist the Debtor in connection with claims for taxes made by governmental units; and
- i. to perform all other legal services for the Debtor as a Debtor-in-Possession that may be necessary.

3.

The Rule 2014 Verification of A. Keith Logue attached to the application stated that Mr. Logue is a “disinterested person.” Mr. Logue further states that he is the brother of D. Stanley Logue, the Debtor’s chief financial officer. By virtue of this familial relationship to an officer of the Debtor, A. Keith Logue is an insider as defined in 11 U.S.C. § 101(31)(B)(vi). He is, therefore, not a disinterested person as defined by 11 U.S.C. § 101(14)(A). Consequently, he cannot be employed as counsel for the Debtor based on the requirements of 11 U.S.C. § 327(a).

4.

On October 23, 2019, The United States Trustee objected to the employment of Mr. Logue as Debtor’s counsel under section 327(a) due to the fact that he is not a disinterested person. Subsequently, on October 28, 2019, Mr. Logue filed an amended application acknowledging that he was not a disinterested person, but nevertheless asking that he be employed as special counsel under section 327(e) of the Bankruptcy Code, which does not require that he be disinterested (Doc 186).

5.

Mr. Logue's amended application correctly states that section 327(e) prohibits special counsel from assisting the debtor-in-possession in "conducting the case." Paragraph 15 of the amended application lists the various duties for which Mr. Logue now purports to be hired as special counsel, *nuc pro tunc*. These duties, which include work related to the Initial Debtor Interview and appearing with the Debtor during the interview, preparing and filing the Debtor's schedules and statements of financial affairs, and advising the Debtor with regard to bankruptcy issues involving its primary lender must be considered assisting the debtor in "conducting the case." In fact, these are precisely the core services that bankruptcy counsel provides in every case – services that only occur in the context of a bankruptcy case, and in the absence of which, a case would be dismissed. These items are not "special" and are reserved only to counsel that is hired under section 327(a), which requires counsel to be disinterested.

6.

The issues in the present case are similar to those in *In re Running Horse, L.L.C.*, 371 B.R. 446 (Bankr. E.D.Ca. 2007). In that case, the Debtor tried to employ a law firm under section 327(a) to "take all necessary actions to protect and preserve the estate." *Id.* at 449. After objection on the grounds that the law firm was not eligible under 327(a) to serve as counsel due to the fact that it was not disinterested, the Debtor tried to employ the firm as special counsel under section 327(e). *Id.* at 450. The Court denied the application, and quoting the decision in *In re Tidewater Memorial Hospital, Inc.*, 110 B.R. 221, 228 (Bankr.E.D.Va. 1989), the court stated that "a professional whose services may be vital to the debtor's reorganization effort, but who is not "disinterested" and eligible for employment under § 327(a), cannot circumvent that

requirement by trying to characterize the employment as “special counsel” under § 327(e).” *Id.* at 452.

7.

In the present case, Mr. Logue’s original application included a description of tasks that ended with the language, “all other legal services for the Debtor-In-Possession that may be necessary.” Permitting employment as special counsel for the same tasks (which had likely been completed by the time the amended application was made) under section 327(e) simply by re-characterizing them circumvents the requirements of disinterestedness placed on the employment of professionals under section 327(a) and renders that section moot.

WHEREFORE, the United States Trustee requests that the Court deny the Debtor’s Application to Employ Logue Law, P.C. under section 327(a) or 327(e).

This 15th day of November, 2019.

Respectfully submitted,

NANCY J. GARGULA
United States Trustee

Office of the U.S. Trustee
440 Martin Luther King Jr. Blvd, Ste. 302
Macon, GA 31201 (478) 752-3545
robert.g.fenimore@usdoj.gov

By: /s/ Robert G. Fenimore
Robert G. Fenimore
Trial Attorney
GA Bar No. 205202

CERTIFICATE OF SERVICE

This is to certify that I have this date served the foregoing pleading titled **AMENDED OBJECTION OF UNITED STATES TRUSTEE TO APPLICATION TO EMPLOY LOGUE LAW, P.C. AS COUNSEL FOR DEBTOR** by placing a true and correct copy with the United States Postal Service with adequate postage affixed to assure first class delivery and addressed to the persons listed on the attached Short List (updated as of October 16, 2019).

This 15th day of November, 2019.

By: /s/ Robert G. Fenimore
Robert G. Fenimore
Trial Attorney
GA Bar No. 205202
Office of the U.S. Trustee
440 Martin Luther King Jr. Blvd
Suite 302
Macon, GA 31201
(478) 752-3545
robert.g.fenimore@usdoj.gov

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
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IN RE: :
:
THRUSH AIRCRAFT, INC., : Chapter 11 Case No. 19-10976-AEC
:
Debtor. :
_____ :

**DEBTOR'S STATEMENT AND FILING OF UPDATED SHORT LIST OF CREDITORS
AS OF OCTOBER 16, 2019**

Pursuant to the Order on Debtor's Motion for an Order Limiting Notice and Establishing Notice Procedures (Dkt. 69) entered September 16, 2019, Debtor hereby files its updated Short List as of October 16, 2019, shown on the attached Exhibit A.

Respectfully submitted this 17th day of October, 2019.

STONE & BAXTER, LLP
By:

/s/ Matthew S. Cathey
Matthew S. Cathey
Georgia Bar No. 759547

577 Mulberry Street, Suite 800
Macon, Georgia 31201
(478) 750-9898; (478) 750-9899 *facsimile*
mcathey@stoneandbaxter.com

Counsel for Debtor

Exhibit A

Thrush Aircraft
300 Pretoria Road
Albany, Georgia 31721

K. Payne Hughes
1270 Club Cove Drive
Greensboro, Georgia 30642

A. Keith Logue
Logue Law P.C.
3423 Weymouth Court
Marietta, Georgia 30062

Ward Stone, Jr.
Stone & Baxter, LLP
577 Mulberry Street, Suite 800
Macon, Georgia 31201

Matthew S. Cathey
Stone & Baxter, LLP
577 Mulberry Street, Suite 800
Macon, Georgia 31201

G. Daniel Taylor
Stone & Baxter, LLP
577 Mulberry Street, Suite 800
Macon, Georgia 31201

Robert G. Fenimore
Trial Attorney
Office of the United States Trustee
440 Martin Luther King Jr. Blvd., Suite 302
Macon, Georgia 31201

John T. McGoldrick, Jr.
Martin Snow, LLP
P.O. Box 1606
Macon, Georgia 31202-1606

Gary A. Barnes
Baker, Donelson, Bearman,
Caldwell & Berkowitz, P.C.
1600 Monarch Plaza
3414 Peachtree Road, N.E.
Atlanta, Georgia 30326

Timothy J. Colletti, Esq.
Baker, Donelson, Bearman,
Caldwell & Berkowitz, P.C.
1600 Monarch Plaza
3414 Peachtree Road, N.E.
Atlanta, Georgia 30326

C. Edward Dobbs
Parker, Hudson, Rainer & Dobbs LLP
303 Peachtree Street, N.E., Suite 3600
Atlanta, Georgia 30308

Rufus T. Dorsey
Parker, Hudson, Rainer & Dobbs LLP
303 Peachtree Street, N.E., Suite 3600
Atlanta, Georgia 30308

Michael C. Sullivan
Parker, Hudson, Rainer & Dobbs LLP
303 Peachtree Street, N.E., Suite 3600
Atlanta, Georgia 30308

Barbara G. Parker
Assistant United States Attorney
Post Office Box 1702
Macon, Georgia 31202-1702

Jonathan W. Jordan
King and Spalding, , LLP
1180 Peachtree Street
Atlanta, Georgia 30309

David A. Garland
Moore, Clarke, DuVall & Rodgers, P.C.
Post Office Drawer 71727
Albany, Georgia 31708-1727

Stephan A. Ray
Moore, Clarke, DuVall & Rodgers, P.C.
Post Office Drawer 71727
Albany, Georgia 31708-1727

Mark A. Gilbert
Coleman Talley LLP
Post Office Box 5437
Valdosta, Georgia 31603-5437

Cater C. Thompson, Esq.
Jones Cork, LLP
Post Office Box 6437
Macon, GA 31208-6437

Texas Transland, LLC dba Transland
1206 Hatton Road, Suite A
Wichita Falls, Texas 76302

Grant Thornton LLP
33562 Treasury Center
Chicago, Illinois 60694-3500

Oxford Global Resources
Post Office Box 3256
Boston, Massachusetts 02241-3256

GE Aircraft Engines
Beranovych 65, 19900 Praha 18
Letnany, 199 00
CZECHIA

Pratt & Whitney
1000 Boulevard Marie-Victorin
Longueuil, QC J4G-1A1
CANADA

AB&T National Bank
Post Office Box 71269
Albany, Georgia 31708

Trumpf Finance
480 Washington Blvd., 24th Floor
Jersey City, New Jersey 07310

IPFS Corporation
Post Office Box 100391
Pasadena, California 91189-0391

Winthrop Resources Corp.
Post Office Box 650
Hopkins, Minnesota 55343-0650

LEAF Capital Funding, LLC
2005 Market Street, 14th Floor
Philadelphia, Pennsylvania 19103

Emergys
801 E. Campbell Road
Richardson, Texas 75081

SB&T Synovus
1251 US Hwy 82 W
Leesburg, Georgia 31763

Toyota Industries Commercial Fin
8951 Cypress Waters Blvd., Suite 300
Coppell, Texas 75019

Trumpf, Inc.
111 Hyde Road
Farmington, Connecticut 06032

Wells Fargo Bank
1 S. Broad Street, 8th Floor
Philadelphia, Pennsylvania 19107

Wells Fargo Equipment Financing
600 S. 4th Street, MAC N9300-100
Minneapolis, Minnesota 55415

Winthrop Resources
11100 Wayzata Blvd., Suite 800
Minneapolis, Minnesota 55305

Dougherty County Tax Commissioner
240 Pine Street
Albany, Georgia 31701

Sarah Primrose
King & Spalding, LLP
1180 Peachtree Street
Atlanta, Georgia 30309

GE Aviation Czech, s.r.o.
30 Merchant Street
Cincinnati, Ohio 45246-3750

Thomas R. Walker
FisherBroyles, LLP
945 East Paces Ferry Road NE, Suite 2000
Atlanta, Georgia 30326

Terry L. Zabel
Rhoades McKee PC
55 Campau Avenue, N.W., Suite 300
Grand Rapids, Michigan 49503

Joseph W. Dent
Watson Spence LLP
Post Office Box 2008
Albany, Georgia 31702-2008

Wesley J. Boyer
Christopher W. Terry
Boyer Terry LLC
348 Cotton Avenue, Suite 200
Macon, Georgia 31201

Aaron L. Hammer
John W. Guzzardo
Nathan E. Delman
Horwood Marcus Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, Illinois 60661

Alfred N. Corriere
Post Office Box 347
Albany, Georgia 31702-0347

Mark S. Redden
811 N. Van Buren Street
Albany, Georgia 31701-2121